
By: **Senator Dorman**
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Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 **Motor Vehicle Liability Insurance - Waiver Offer of Coverage - Family**
3 **Exclusion**

4 FOR the purpose of ~~providing that, if~~ requiring an insurer to offer to the first named
5 insured under a policy or binder of private passenger motor vehicle liability
6 insurance ~~does not wish to have~~ liability coverage for claims made by a family
7 member in the same amount as the liability coverage for claims made by a
8 nonfamily member; ~~the first named insured must make an affirmative written~~
9 ~~waiver of the coverage~~; requiring an insurer to provide certain liability coverage
10 if the first named insured ~~does not make an affirmative written waiver~~ elects
11 certain coverage; ~~providing that a waiver is not effective unless the insurer gives~~
12 ~~a certain notice to the first named insured; requiring a waiver to be on a certain~~
13 ~~form; requiring an insurer to make the offer to the first named insured on a~~
14 certain form; requiring the form to contain certain explanations; requiring the
15 offer to meet certain criteria; ~~allowing a waiver to be made on a certain form~~
16 ~~under certain circumstances; providing that a waiver made by a person who is~~
17 ~~insured continuously by an insurer or the Maryland Automobile Insurance Fund~~
18 ~~is effective until the waiver is withdrawn in writing~~; prohibiting an insurer from
19 refusing to underwrite a person first named insured because the person first
20 named insured ~~refuses to waive~~ requests or elects certain coverage; establishing
21 certain penalties for a violation of a certain provision of this Act; providing for
22 the application of this Act; and generally relating to ~~waivers~~ the offering of
23 coverage under policies and binders of private passenger motor vehicle liability
24 insurance.

25 BY adding to
26 Article - Insurance
27 Section 19-504.1

1 Annotated Code of Maryland
2 (1997 Volume and 2000 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Insurance**

6 19-504.1.

7 (A) THIS SECTION APPLIES ONLY WHEN THE LIABILITY COVERAGE UNDER A
8 POLICY OR BINDER OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE
9 EXCEEDS THE AMOUNT REQUIRED UNDER § 17-103 OF THE TRANSPORTATION
10 ARTICLE.

11 ~~(B) (1) IF THE FIRST NAMED INSURED UNDER A POLICY OR BINDER OF
12 PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE DOES NOT WISH TO
13 OBTAIN LIABILITY COVERAGE FOR CLAIMS MADE BY A FAMILY MEMBER IN THE
14 SAME AMOUNT AS THE LIABILITY COVERAGE FOR CLAIMS MADE BY A NONFAMILY
15 MEMBER PROVIDED UNDER THE POLICY OR BINDER, THE FIRST NAMED INSURED
16 SHALL MAKE AN AFFIRMATIVE WRITTEN WAIVER OF HAVING LIABILITY COVERAGE
17 FOR CLAIMS MADE BY FAMILY MEMBERS IN THE SAME AMOUNT AS THE LIABILITY
18 COVERAGE FOR CLAIMS MADE BY NONFAMILY MEMBERS.~~

19 ~~(2) IF THE FIRST NAMED INSURED DOES NOT MAKE AN AFFIRMATIVE
20 WRITTEN WAIVER UNDER THIS SECTION, THE INSURER SHALL PROVIDE LIABILITY
21 COVERAGE FOR CLAIMS MADE BY FAMILY MEMBERS IN AN AMOUNT EQUAL TO THE
22 AMOUNT OF LIABILITY COVERAGE PROVIDED UNDER THE POLICY OR BINDER FOR
23 CLAIMS MADE BY NONFAMILY MEMBERS.~~

24 ~~(C) A WAIVER MADE UNDER THIS SECTION IS NOT EFFECTIVE UNLESS, PRIOR
25 TO THE WAIVER, THE INSURER GIVES THE FIRST NAMED INSURED WRITTEN NOTICE
26 OF THE NATURE, EXTENT, BENEFIT, AND COST OF THE LEVEL OF THE LIABILITY
27 INSURANCE COVERAGE BEING WAIVED.~~

28 ~~(D) (1) A WAIVER MADE UNDER THIS SECTION SHALL BE MADE ON THE
29 FORM THAT THE COMMISSIONER REQUIRES.~~

30 ~~(2) THE FORM MAY BE PART OF THE INSURANCE CONTRACT.~~

31 ~~(3) THE FORM SHALL CLEARLY AND CONCISELY EXPLAIN IN 10 POINT
32 BOLDFACE TYPE:~~

33 ~~(i) THE NATURE, EXTENT, BENEFIT, AND COST OF THE LEVEL OF
34 THE LIABILITY COVERAGE FOR CLAIMS MADE BY FAMILY MEMBERS THAT WOULD BE
35 PROVIDED UNDER THE POLICY OR BINDER IF NOT WAIVED BY THE FIRST NAMED
36 INSURED;~~

37 ~~(ii) THAT A FAILURE OF THE FIRST NAMED INSURED TO MAKE A
38 WAIVER REQUIRES AN INSURER TO PROVIDE LIABILITY COVERAGE FOR CLAIMS~~

1 ~~MADE BY FAMILY MEMBERS IN AN AMOUNT EQUAL TO THE AMOUNT OF LIABILITY~~
2 ~~COVERAGE PROVIDED UNDER THE POLICY OR BINDER OF PRIVATE PASSENGER~~
3 ~~MOTOR VEHICLE LIABILITY INSURANCE FOR CLAIMS MADE BY NONFAMILY~~
4 ~~MEMBERS;~~

5 ~~(III) THAT AN INSURER MAY NOT REFUSE TO UNDERWRITE A~~
6 ~~PERSON BECAUSE THE PERSON REFUSES TO WAIVE THE LIABILITY COVERAGE FOR~~
7 ~~CLAIMS MADE BY FAMILY MEMBERS IN AN AMOUNT EQUAL TO THE COVERAGE~~
8 ~~PROVIDED FOR CLAIMS MADE BY NONFAMILY MEMBERS; AND~~

9 ~~(IV) THAT A WAIVER MADE UNDER THIS SECTION MUST BE AN~~
10 ~~AFFIRMATIVE WRITTEN WAIVER.~~

11 ~~(E) A WAIVER MADE UNDER THIS SECTION BY A PERSON WHO IS INSURED~~
12 ~~CONTINUOUSLY BY AN INSURER OR BY THE MARYLAND AUTOMOBILE INSURANCE~~
13 ~~FUND IS EFFECTIVE UNTIL THE WAIVER IS WITHDRAWN IN WRITING.~~

14 (B) AN INSURER SHALL OFFER TO THE FIRST NAMED INSURED UNDER A
15 POLICY OR BINDER OF PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE
16 LIABILITY COVERAGE FOR CLAIMS MADE BY A FAMILY MEMBER IN THE SAME
17 AMOUNT AS THE LIABILITY COVERAGE FOR CLAIMS MADE BY A NONFAMILY
18 MEMBER UNDER THE POLICY OR BINDER.

19 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN OFFER MADE
20 UNDER THIS SECTION SHALL BE MADE ON A FORM THAT THE COMMISSIONER
21 REQUIRES.

22 (2) THE FORM:

23 (I) MAY BE PART OF THE INSURANCE APPLICATION, POLICY,
24 CONTRACT, OR BINDER;

25 (II) SHALL CLEARLY AND CONCISELY EXPLAIN IN 10 POINT
26 BOLDFACE TYPE THE NATURE, EXTENT, BENEFIT, AND COST OF THE AMOUNT OF
27 LIABILITY COVERAGE FOR CLAIMS MADE BY FAMILY MEMBERS THAT IS AVAILABLE
28 TO THE FIRST NAMED INSURED; AND

29 (III) SHALL STATE THAT AN INSURER MAY NOT REFUSE TO
30 UNDERWRITE A FIRST NAMED INSURED BECAUSE THE FIRST NAMED INSURED
31 REQUESTS OR ELECTS THE LIABILITY COVERAGE FOR CLAIMS MADE BY FAMILY
32 MEMBERS IN AN AMOUNT EQUAL TO THE COVERAGE PROVIDED FOR CLAIMS MADE
33 BY NONFAMILY MEMBERS.

34 ~~(F)~~ (D) (1) AN INSURER MAY NOT REFUSE TO UNDERWRITE A PERSON
35 FIRST NAMED INSURED BECAUSE THE PERSON REFUSES TO WAIVE FIRST NAMED
36 INSURED REQUESTS OR ELECTS THE LIABILITY COVERAGE FOR CLAIMS MADE BY
37 FAMILY MEMBERS IN AN AMOUNT EQUAL TO THE COVERAGE PROVIDED FOR CLAIMS
38 MADE BY NONFAMILY MEMBERS.

1 (2) AN INSURER THAT VIOLATES THIS SUBSECTION IS SUBJECT TO THE
2 PENALTIES PROVIDED IN §§ 4-113 AND 4-114 OF THIS ARTICLE.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
4 applicable to all private passenger motor vehicle liability insurance policies and
5 binders issued, delivered, or renewed in the State on or after October 1, 2001.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2001.